

Malibu City Council Zoning Ordinance Revisions and Code Enforcement Subcommittee Special Meeting Agenda

Tuesday, January 11, 2011, 9:00 a.m.
Malibu City Hall – Large Conference Room
23815 Stuart Ranch Road

Mayor Jefferson Wagner
Mayor Pro Tem John Sibert

Call to Order

Approval of Agenda

Public Comment

This is the time for members of the public to comment on any items not appearing on this agenda. Each public speaker shall be allowed up to 3 minutes each for comments. The Subcommittee may not discuss or act on any matter not specifically identified on this agenda, pursuant to the Ralph M. Brown Act.

Discussion Items

1. Zoning Text Amendment No. 09-009 and Local Coastal Program Amendment No. 09-007 Updating the Sign Ordinance (continued from December 14, 2010)

Staff recommendation: Provide comments and recommendations to staff on the various alternatives regarding revisions to the sign ordinance.

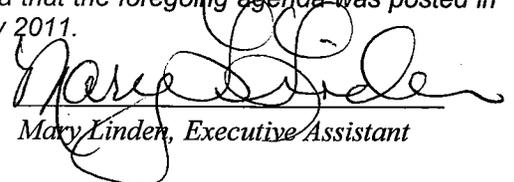
Staff contact: Assistant Planner Sterling, 310-456-2489, ext.234

Adjournment

Potential Upcoming Agenda Items

- Commercial Open Space and Landscaping

I hereby certify under penalty of perjury, under the laws of the State of California that the foregoing agenda was posted in accordance with the applicable legal requirements. Dated this 4th day of January 2011.


Mary Linden, Executive Assistant



Zoning Ordinance
Revisions & Code
Enforcement
Subcommittee Meeting
01/11/11

Item 1

Zoning Ordinance Revisions and Code Enforcement Subcommittee Agenda Report

To: Zoning Ordinance Revision and Code Enforcement Subcommittee (ZORACES) Members Wagner and Sibert

Prepared by: Kristin Sterling, LEED Green Associate, Assistant Planner *KS*

Reviewed by: Joyce Parker Bozylinski, AICP, Planning Manager *JPB*

Approved by: Victor Peterson, Community Development Director *VP*

Date prepared: January 4, 2011 **Meeting date:** January 11, 2011

Subject: Zoning Text Amendment No. 09-009 and Local Coastal Program Amendment No. 09-007 Updating the Sign Ordinance (Continued from December 14, 2010)

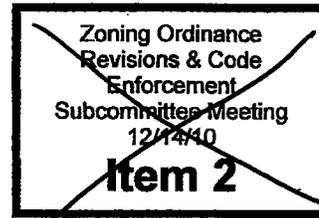
RECOMMENDED ACTION: Provide comments and recommendations to staff on the various alternatives regarding revisions to the sign ordinance.

DISCUSSION: This item was first heard at the December 14, 2010 ZORACES meeting. At that meeting, the subcommittee discussed Non-Conforming Signs. The subcommittee requested that the item be brought back in January for further discussion regarding Height Modification of Freestanding Signs Fronting Pacific Coast Highway, Decisions Regarding Sign Modification, Location of Accessory /Secondary Signs and Use of Neon Signs.

STAFF FOLLOW UP: Staff will incorporate comments and recommendations and return to ZORACES with the draft revised sign ordinance.

ATTACHMENTS:

1. ZORACES Agenda Report - December 14, 2010 (without attachments)



Zoning Ordinance Revisions and Code Enforcement Subcommittee Agenda Report

To: Zoning Ordinance Revision and Code Enforcement Subcommittee (ZORACES) Members Wagner and Sibert

Prepared by: Kristin Sterling, LEED Green Associate, Assistant Planner *KS*

Reviewed by: Joyce Parker Bozylinski, AICP, Planning Manager *JPB*

Approved by: Victor Peterson, Community Development Director *VP*

Date prepared: December 7, 2010 **Meeting date:** December 14, 2010

Subject: Zoning Text Amendment No. 09-009 and Local Coastal Program Amendment No. 09-007 Updating the Sign Ordinance

RECOMMENDED ACTION: Provide comments and recommendations to staff on the various alternatives regarding revisions to the sign ordinance.

DISCUSSION: On October 28, 2009, the City Council included a Sign Ordinance update on the list of priority Zoning Text Amendments (ZTA).

On January 25, 2010, the City Council adopted Resolution No. 10-02 to initiate ZTA No. 09-009 and Local Coastal Program Amendment (LCPA) No. 09-007 to consider changes to Title 17 (Zoning) of the Malibu Municipal Code (M.M.C.) and the Local Coastal Program (LCP) regarding an update to the sign ordinance.

Signage requirements are contained in Chapter 17.52 of the M.M.C. and LCP Local Implementation Plan (LIP) Chapter 3.13; hereafter, referred to as the sign code. The current sign code was written in 1993 and needs to be updated to be consistent with State and Federal laws. Staff has taken this opportunity to revise the sign code to create clear, straightforward regulations that allow flexibility in design and promote creative, legible signs. The goal of the revised sign code is to balance the need for signage while minimizing traffic hazards and reducing visual clutter. The revised sign code will allow signs to promote local businesses while enhancing the community's appearance.

In addition, the revised code will meet the "content neutral" legal requirements. Content neutral sign regulations are non-discriminatory and specify when, where and how a sign can be installed, without reference to the content of the message. This revision in the sign code is important as any content based distinctions in a sign ordinance may violate the First Amendment. Restrictions on signs that are related to "time, place and manner" are permissible under the United States Constitution so long as those restrictions are content neutral. Sign parameters addressed in time, place and manner include height, size, location and lighting.

The existing sign code contains content based distinctions by having different or special signage rules for real estate, open house, garage sales, construction, no trespassing, land subdivisions, lease potential, religious and charitable organizations, logos and gasoline service station signs.

The content neutral approach provides signage regulations regardless of the purpose, content or the business associated to the sign. The revised sign code will provide a cohesive approach for the sign permitting process by providing clear guidelines to applicants. The end result will be consistent processing (and consistent decisions) on all sign applications.

The revised sign code will include an update to the following sections of the sign code: purpose and intent, definitions and sign permit requirements including prohibited signs, permit processing, general provisions, comprehensive sign program regulations, non-conforming signs and enforcement. Staff is currently drafting the above-referenced sections and at this time, requests comments and recommendations from the subcommittee regarding the following: 1) Non-Conforming Signs, 2) Height of Free Standing Signs, 3) Decisions on Sign Modification Requests, 4) Location of Accessory / Secondary Signs and 5) Use of Neon.

Non-conforming and illegal signs constitute clutter visible from designated scenic roads, namely Pacific Coast Highway (PCH). The placement of banners on buildings and unpermitted temporary signs on sidewalks and within the public right-of-way all contribute to the visual clutter. Often, a business will obtain one sign permit and, later, without the benefit of permits, continue to add more signage to the building. This creates more visual clutter throughout the City. Pursuant to previous City Council direction, City Code Enforcement does not proactively seek sign code violations. A written complaint is required before Code Enforcement takes action.

Non-Conforming Signs

Many signs within the City do not meet sign code standards in regards to height, size, location, illumination and number of signs. These signs are considered existing non-conforming since they were erected prior to the City's incorporation and adoption of the M.M.C. Examples of existing non-confirming signs include pole signs, roof signs, and free-standing billboard signs. Existing non-conforming pole

signs include Duke's at 21550 PCH, Country Liquor at 21235 PCH, Shell service station at 23387 PCH, and Bank of America at 29169 Heathercliff. Existing non-conforming roof signs include roof mounted signs such as Cosentino's Fresh Flower Market at 21201 PCH, Budget Rent a Car at 22853 PCH, the La Salsa Man at 22800 PCH and How's Market at 30745 PCH. Existing non-conforming free-standing billboard signs include the billboard at the corner of Heathercliff and PCH as well as the billboard advertising the Malibu RV Park above Puerco Beach.

The sign code allows normal repair and maintenance on non-conforming signs but the costs associated with the repair and maintenance cannot exceed fifty percent of the replacement cost of the sign. Sign replacement costs can be difficult to calculate. Staff relies on replacement cost information provided by the applicant. However, since most businesses want to retain non-conforming pole or roof signs, costs are likely skewed in favor of retaining the non-conformity. The "50 percent" provision is a disincentive for business owners to invest in updating signs since 51 percent means they need to modify their sign to meet current code.

An example of the non-conforming sign conundrum can be found in a recent sign permit application. The shopping center located at 3822 Cross Creek currently has a 33 foot high, 388 square foot, non-conforming pole sign listing multiple tenants. As part of an ongoing renovation, the property owner submitted a sign permit application to alter the existing pole sign. The proposed sign included the same square footage of signage area but lowered the sign to 31 feet in height and modified the shape of the existing sign. The changes to the sign exceed the threshold to qualify as repair and maintenance, and constitute a replacement sign. Hence, the existing non-conforming sign cannot be modified unless the sign is reduced in height to six feet.

Option 1 Allow Maintenance and Repairs Only on Existing Non-conforming Signs

This option would continue to allow only the repair and maintenance of existing, legal non-conforming signs. However, staff would re-evaluate the criteria on how sign repair costs are evaluated.

Choosing this option would mean that nonconforming signs could only be modified to meet existing Code requirements. The advantage of this option is that eventually all businesses in the City would have signs that conform to the existing sign code and all businesses (new and existing) would be treated equally in terms of the height and location of their sign. The disadvantage is that some existing signs that have much larger sign area or height than what is currently allowed would probably never be modernized or upgraded unless the code was modified to allow signs taller or larger than what is currently allowed for monument signs (6 feet in height and 48 square feet in size).

Option 2 Allow Maintenance, Repairs or Alterations on all Existing Non-Conforming Signs into perpetuity

This option would allow the maintenance, repair or alterations of existing, legal non-conforming signs provided the non-conforming sign does not increase in size or brightness and that any structural support for the sign is not moved, taken down, or replaced. This would mean that existing non-conforming signs could be updated but they could not become taller, larger or brighter.

The advantage to this option is that non-conforming signs could be upgraded to improve their overall appearance. The disadvantage is that these signs would remain indefinitely and never be brought into conformance with existing code. In addition, new businesses would not be allowed to have the same signage as existing businesses.

Option 3 Amortization of Non-Conforming Signs

This option would allow an amortization of non-conforming signs. An amortization would allow legal non-conforming signs to continue to be maintained for a specified number of years to allow the sign's value to be depreciated over a reasonable period of time. Amortization periods vary from as little as five years to as many as twelve years. Examples of communities with amortization programs include: the County of Santa Barbara which is currently in a nine year amortization period (2008 to 2017), and the City of Santa Clarita which recently ended its a nine year amortization period (2000 to 2009), cities such as Ojai, Calabasas and Santa Monica, require signs to come into conformance with the new sign code, 10 to 15 years from sign code adoption.

At the end of the established time period, signs would no longer be considered existing non-conforming and the Planning Manager may authorize a notice of abatement. An abatement process would include a provision for an appeal of the abatement order. The appellant could appeal to the Planning Commission for a time extension allowing the non-conforming sign to remain. An extension could be granted if the appellant demonstrates (and the Planning Commission finds) that the abatement imposes an unreasonable hardship.

The amortization could include all non-conforming signs or focus on eliminating specific signs. One approach would be to amortize signs currently identified as "prohibited signs" such as pole signs and roof signs. Another approach would be to amortize specific signs that detract from the PCH scenic corridor such as pole signs in excess of 12 feet or illuminated roof mounted signs.

The advantage to this option is that non-conforming signs would eventually be removed and brought into conformance with the existing code. The disadvantage to this option is that forcing businesses to remove existing legal non-conforming signs is often controversial in communities. In addition, it is often difficult to determine the

value of a sign in order to determine the number of years necessary to amortize the sign.

Height Modification of Freestanding Signs Fronting Pacific Coast Highway

The sign code does not permit freestanding signs¹ to exceed six feet in height. A majority of the existing freestanding signs exceed code. On highways with speeds similar to those on PCH (45 MPH), the United States Sign Council (USSC) recommends a minimum sign height of no less than seven feet above grade for copy placement, in order to ensure adequate visibility and a reasonable viewer reaction time. The USSC states signs below seven feet in height are ineffective at transferring roadside information in moderate to high density traffic conditions. Staff notes, the USSC has no maximum or specific preferred height standard for high density traffic conditions.

Option 1 No Change

This option would continue to permit free standing signs a maximum of six feet in height.

Option 2 Increase the Height Standard

This option would allow free standing signs fronting PCH to be higher than six feet in height and allow adequate time for cars travelling on PCH to locate businesses in a safe and reasonable manner. Staff requests consideration of sign heights fronting PCH to a maximum of twelve feet in height. This consideration is based on the speed of cars traveling on PCH. Staff will be able to provide heights of some of the existing signs on PCH at the meeting which will give ZORACES some perspective on heights should they wish to consider an increase in height.

Decisions Regarding Sign Modification

Currently, any request for deviation (minor modification) from the sign code requires a public hearing at the Planning Commission. The sign code does not define what constitutes a "minor" modification or when a variance would be needed. The code also does not provide findings for approval of a minor modification. Typically, minor modification findings are not as strict as variance findings. For instance, for minor modifications, findings of unique physical constraints or hardship do not need to be made.

An example of a minor modification request is a sign application proposing a sign one foot higher than allowed by code. The one foot height increase is due to property constraints and is clearly required to allow the sign to be visible from

¹ For the context of this report a freestanding sign means a sign that is not attached to any building but is securely attached and fixed to the ground including monument, pole and tenant identification signs.

vehicular traffic on PCH. Because this request requires a public hearing, with a fee and unknown outcome, property owners often don't choose this approach and just opt for signage that meets the code but doesn't address the site's constraints or provide the best signage for the business.

M.M.C. Section 17.62.040 (Site Plan Review) allows the Planning Manager to approve discretionary requests regarding various minor deviations from development standards such as height and reduction of setbacks, using a Site Plan Review. The Site Plan Review requires that specific findings be made to support deviation from the code within a maximum range permitted (i.e. maximum 20 percent reduction in side yard setback). However, there is currently no provision for the Planning Manager to make discretionary decisions regarding signs. Staff is requesting recommendations regarding whether minor deviations from the sign code should be approved by the Planning Manager or continue to require a public hearing and review by the Planning Commission.

Option 1 No Change

This option would continue to require a public hearing in which the Planning Commission will review all signs that do not strictly adhere to the sign ordinance through a minor modification. However, staff would develop findings for a minor modification.

Option 2 Planning Manager Approval of Minor Modifications

This option allows Planning Manager review of deviations from development standards of up to 10 percent regarding size and height of signs, subject to a minor modification and appropriate findings. The Planning Manager's decision would be appealable to the Planning Commission. Any proposed deviation from standards in excess of 10 percent would require a variance and public hearing and review from Planning Commission.

Option 3 Planning Commission and Planning Manager Approval of Minor Modifications

This option allows Planning Manager to consider deviations from development standards of up to 10 percent regarding size and height of signs, subject to a minor modification and appropriate findings. Requests for deviations over 10 percent and up to 20 percent would require Planning Commission approval of a major modification. Any deviation in excess of 20 percent would require Planning Commission approval of a variance.

Location of Accessory /Secondary Signs

The sign code requires primary signs to be located on the primary frontage. Currently, the sign code does not regulate specific locations of accessory / secondary signs². Accessory / secondary signs are currently permissible on all sides of a building, including the rear and sides. However, secondary signs are allowed only on buildings that are 125 feet in length, cannot be illuminated and can only include the name of the center or the primary tenant. Other accessory signs are allowed to accommodate special circumstances such as buildings that front on two streets. Although M.M.C. 17.52.070 (A)(7) prohibits accessory / secondary signage from facing residentially zoned properties unless they are more than 200 feet from the residentially zoned property or if the sign faces and a parallel to a public right-of-way, the code does not prohibit those signs from facing open space and institutional zoned properties.

There are a few properties in which the rear or the side of the buildings directly face non-commercial properties including but not limited to the Malibu Country Mart located 3835 Cross Creek, in which the rear of the building faces Legacy Park, and the Malibu Lumber Yard located at 3939 Cross Creek in which a portion of the building also faces Legacy Park.

Another example of accessory signage can be found on buildings in which the side of the building is visible from PCH. These businesses frequently have a building frontage sign, as well as signs on the building side walls. This includes the commercial property located at 3822 Cross Creek, also addressed as 23359 PCH (Guido's, Diesel, Marmalade Café, Malibu Beach Club) which has multiple signs on the rear of the building that can be seen when driving west on PCH, and several buildings particularly on the east end of Malibu between 22775 PCH (Zuma Jay's Surfboards) and 22333 PCH (Thai Dishes) which include a tenant name along the side of the building visible from PCH. In addition, buildings such as 22625 and 22525 PCH list multiple tenants on the side of the building wall.

Allowing additional signs on the rear and sides of buildings can eliminate the need for freestanding signs; however, if it isn't regulated, it can add visual clutter to a building.

Option 1 No Change

This option would continue to permit accessory / secondary signage on the rear and sides of buildings including those facing non-commercial properties.

² Accessory / secondary signs include any signage accompanying the primary sign. The primary sign is typically the building mounted sign located above the main entrance.

Option 2 Prohibit Signs Located on the Rear and Sides of Buildings

This option would prohibit all signs on the rear and side of buildings. Business and shopping center names and individual tenants would only be permitted to locate their signs on the primary entrance of a building / tenant suite.

Option 3 Allow Signs on Rear and Sides of Building with Restrictions

This option would allow business and shopping centers to advertise the name of the center, or primary tenant only on the rear or sides of buildings but would prohibit signage from facing open space, rural residential or institutionally zoned properties. In addition, this option would prohibit individual tenants and multiple tenant listings from being placed on the rear or sides of buildings.

Use of Neon Signs

The sign code currently prohibits all neon signs. Since the typical "open" signs commonly displayed in windows are in neon, these businesses are out of compliance with the sign code and could be subject to enforcement.

Option 1 No Change

This option would continue to prohibit the use of all neon signs including window neon "open" signs.

Option 2 Permit Neon Signs in Windows

Currently, informational signs (open, closed, hours, etc.) are allowed within window areas without a permit but they cannot exceed a maximum of five square feet. This option would permit neon signs within a window only. All proposed neon signs including "open" would be counted towards the maximum allowed window signage area. However, in order to remain content neutral, this option would not only apply to "open" signs, but would permit other types of neon signs in windows.

Option 3 Permit Neon Signs on Buildings

This option would permit the use of neon signs directly mounted on buildings as well as window signs.

STAFF FOLLOW UP: Staff will incorporate committee comments and recommendations and return to ZORACES with the draft revised sign ordinance.

ATTACHMENTS:

1. Inventory of citywide signage – via CD